

## **REMARKS**

The present invention is an operable device to be used in a vehicle to control the operating states of the operating device based upon a driving profile indicating an actual driving situation of the vehicle or by measuring fluctuation of a driving speed of a vehicle over a time period. The operable device includes an operating panel 14 through which a user can cause at least one of producing existing operating states or changing existing operating states of the operable device. A decision unit 15 receives data for determining vehicle-specific conditions over a time period of vehicle operation by evaluating received data and converts the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle and blocks or releases existing operating states of the operable device based on the driving profile or as a function of the driving speed. The use of driving profiles by the invention is described in paragraph [0024] of the specification. Moreover, fluctuation of driving speed of the vehicle over a time period may be used for the blocking of operating states or releasing of operating states of the operable device based on the measured fluctuation. See paragraphs [0016] - [0022] of the Substitute Specification. Paragraph [0024] of the Substitute Specification discusses that the driving profile is based upon values received from the sensors 17 such as the speed sensor 17.1.

The decision unit 15 is described in paragraph [0015] of the Substitute Specification as acting as a threshold switch responsive to speed values from the sensor 17.1 which, when dangerous operation is detected, such as operation above

130 kilometers per hour, a data signal blocks the operation of the operating panel on the car radio 12 and prevents telephone calls from being made in the vehicle.

Claims 9-24 stand rejected under 35 U.S.C. § 103 as being unpatentable over EP 0 851 699 A2 (Mamori et al) in view of United States Patent 6,188,949 (Hahn et al).

With respect to claims 9 and 10, the Examiner reasons as follows:

Regarding claim 9 Mamori teaches an operable device, comprising an operating panel through which a user can produce and/or change existing operating states of an operable device (see pg. 5, lines 22-23 & 45-48). Mamori teaches a decision unit which blocks or releases certain operating states of an operable device based on received data (see pg. 7, lines 30-41). Mamori teaches blocking or releasing existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous on the basis of a reference speed (see pg. 7, lines 36-53). Mamori does not teach receiving data for determining vehicle-specific conditions over a time period of vehicle operation by evaluating the received data and converting the vehicle-specific conditions into a driving profile. Hahn teaches receiving data for determining vehicle-specific conditions over a time period of vehicle operation by evaluating the received data and converting the vehicle-specific conditions into a driving profile (see col. 6, lines 1-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include receiving data for determining vehicle-specific conditions by evaluating the received data and converting the vehicle-specific conditions into a driving profile and blocking or releasing operating states based on the driving profile because this would allow for remote operation of external devices based on vehicle conditions.

Regarding claim 10 Mamori teaches an operable device, comprising an operating panel through which a user can produce and/or change existing operating states of an operable device (see pg. 5, lines 22-23 & 45-48). Mamori teaches a decision unit which blocks or releases certain operating states of an operable device based on received data including a reference speed (see pg. 7, lines 36-38 & 41-53). Mamori does not teach determining vehicle-specific conditions by measuring fluctuation of a driving speed of the vehicle over a time period. Hahn teaches receiving data for determining vehicle-specific conditions by measuring fluctuation of a driving speed of the vehicle over a time period (see col. 6, lines 1-10). It would have been obvious to one of ordinary skill in the art at the time

the invention was made to make the invention adapt to include receiving data for determining vehicle-specific conditions by measuring fluctuation of a driving speed of the vehicle over a time period and blocking or releasing operating states based on the measured fluctuation because this would allow for remote operation of external devices based on vehicle conditions.

These grounds of rejection are traversed for the following reasons.

With respect to claim 9, the Examiner is correct that Mamori does not teach receiving data for determining vehicle-specific conditions over a period of time of vehicle operation by evaluating the received data and converting the vehicle-specific conditions into a driving profile. However, the Examiner fails to further consider that claim 9 additionally states that "a driving profile indicat[es] an actual driving situation of the vehicle and blocks or releases the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of the driving profile." Interpreting the teaching of Hahn as broadly as possible does not suggest the aforementioned subject matter. At most, the defining unit 9 of Hahn, which operates in association with the range and velocity controller 1, can be used to control velocity based upon personalized velocity information recorded for each driver separately as discussed in column 7, lines 23, *et seq.* This stored velocity data can be used for a given route to control the velocity of the vehicle over that route as discussed in column 7, lines 55 *et seq.*

The aforementioned driving profile does not indicate an actual driving situation of the vehicle utilized for blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous on the basis of the driving profile.

Accordingly, if the proposed combination were made of Mamori and Hahn et al, the subject matter of claim 9 would not be obtained since the Examiner already recognizes that Mamori does not teach the driving profile and moreover, Hahn et al do not teach converting the vehicle-specific conditions to a driving profile indicating an actual driving situation of the vehicle and blocks or releases the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on the basis of a driving profile.

Moreover, it is submitted that the Examiner has not demonstrated any motivation why a person of ordinary skill in the art would be led to combine the teachings of Mamori and Hahn et al to arrive at the subject matter of claim 9. As the Examiner acknowledges, Mamori is concerned with whether or not a telephone can be operated dependent upon the speed of the vehicle with the telephone being construed to be the claimed operable device. The claimed operable device cannot be construed to be the vehicle *per se* of Hahn et al, which is the only entity that is controlled by Hahn et al, which is aptly demonstrated by the title thereof of "Method and Arrangement for Controlling Longitudinal Velocity of the Vehicle". There is no teaching in Hahn et al of controlling an operable device other than the vehicle itself. Therefore, since there is no common problem that is being addressed by Mamori which pertains to the control of the telephone and Hahn et al which is merely the control of vehicle speed, it is submitted that a person of ordinary skill in the art would not be motivated to combine the teachings of the two references to achieve the subject matter of claim 9.

Claim 10 recites "an operable device to be used in a vehicle including a decision unit which receives data for determining vehicle-specific conditions by measuring fluctuation of a driving speed of the vehicle over a period of time and blocks or releases the existing operating states of the operable device based on the measured fluctuation." The Examiner acknowledges that this is not taught by Mamori.

As has been stated above, while Hahn et al do store velocity data regarding personal usage by an operator of the vehicle to be used along a given route, there is no teaching regarding the controlling of an operable device as recited in claim 10. Any measurement of driving speed of the vehicle over a period of time is not associated with the claimed blocking or releasing of the existing operating states of the operable device based on the measured fluctuation. In other words, the fluctuation in Hahn et al is merely a control parameter for the driving of the vehicle along the route based upon the previously recorded fluctuations in driving speed, but that is not associated with the control of an operable device through an operating panel.

Accordingly, it is submitted that if the proposed combination of Mamori and Hahn et al were made the subject matter of claim 10 would not be achieved. Also, like the rejection of claim 9, the Examiner has not demonstrated why a person of ordinary skill in the art would be motivated to combine the teachings of Mamori with Hahn et al.

Dependent claims 11-24 define further more specific aspects of the present invention which are not rendered obvious by the proposed

combination of Mamori and Hahn et al for the reasons set forth above and the following reasons:

1. Claims 11 and 12 respectively limit claims 9 and 10 in reciting that the operable devices are operable to perform at least one of receiving or transmitting data. Since Hahn et al do not relate to an operating device, their teachings would not be combined with Mamori to achieve the subject matter of claims 11 and 12.

2. Claims 13-16 respectively limit claims 9-12 in reciting equipment which collects information on at least one of conditions or states under which or by which the operable device is currently being operated, and transmits the information as data to the decision unit. There is no teaching in either Mamori or Hahn et al of equipment which collects states under which or by which an operable device is currently being operated. The only operable device is disclosed by Mamori which is a telephone. There is no data collection of the claimed conditions or states disclosed in Mamori or Hahn et al.

3. Claims 17-24 further limit claims 9-16 in reciting a receiving unit; and wherein data is received by the receiving unit and is transmitted to the decision unit to be used alone or together with other data to control the blocking of the operating states or releasing of the operating states of the operable device. As stated above, there is no additional equipment disclosed in Mamori or Hahn et al which pertain to the collection of data and therefore, there is no receiving unit and the functions thereof as recited in claims 17-24 provided by the combined teachings of Mamori and Hahn et al.

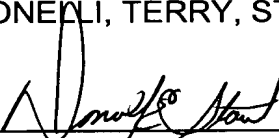
In view of the foregoing amendments and remarks, it is submitted that each of the claims in the application is in condition for allowance.

Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (1117.40456X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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